

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JIN MING LIN, CHI WAI CHAO,
YOOK THAI CHEAH, MING F. FUNG,
MUOI GIANG, YUEN YUE SOOHOO,
and MEI ZHI,

Plaintiffs,

V.

CHINATOWN RESTAURANT CORP.,
and JOYCE P.Y. HAYES,

Defendants.

Civil Action No. 09-11510-GAO

DECLARATION OF MYONG J. JOUN

I, Myong J. Joun, on oath, depose and say the following:

1. I am an attorney in good standing in the Commonwealth of Massachusetts.
2. I am counsel of record for the Plaintiffs in the above-captioned case. I submit this affidavit in support of Plaintiffs' Petition for Costs and Attorneys' Fees ("Fee Petition").
3. Attorney Jeffrey P. Wiesner serve as co-counsel to the Plaintiffs in this case. Mr. Wiesner is submitting an additional affidavit in support of the Fee Petition.

Background and Qualifications

4. I am a member of the Bar of the Supreme Judicial Court of Massachusetts, the United States District Court for the District of Massachusetts, the United States Court of Appeals for the First Circuit, and the United States Supreme Court.
5. I graduated from Suffolk University Law School and began practicing law in 1999. I received a B.A., *magna cum laude*, from the University of Massachusetts in 1994.

6. From 1999 until 2007, I was an associate attorney at the Law Offices of Howard Friedman, P.C. practicing civil rights litigation with an emphasis on police misconduct, prisoners' rights and employment cases. Since 2007, I have had my own practice in the areas of criminal defense and civil rights litigation emphasizing in police misconduct and employee rights. I have represented employees before the Massachusetts Commission Against Discrimination, Massachusetts Superior Court and the United States District of Massachusetts.

7. I have litigated several class action lawsuits including the following: Mack v. Suffolk County, 98-12522-NG; Ford v. Suffolk County, Docket No. 98-11346-NG; Connor v. Plymouth County, Docket No. 00-10835-RBC; Ryan v. Garvey, Docket No. 05-30017-MAP; Tyler v. Suffolk County, Docket No. 06-11354 in the District of Massachusetts and Nilsen v. York County, Docket No. 02-212-P-H in the District of Maine.

8. I have served on the Boards of several leading organizations on issues of civil rights and civil liberties including the American Civil Liberties Union of Massachusetts (2009-present), the Massachusetts Law Reform Institute (2001-2010), and the Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association (2003-2007).

9. I have also been an active member of numerous bar associations, including leadership roles in several organizations as follows:

- Massachusetts Employment Lawyers Association;
- Massachusetts Association of Criminal Defense Lawyers;
- National Police Accountability Project of the National Lawyers Guild;
- Federal Bar Association, Massachusetts chapter
- Massachusetts Bar Association
 - Executive Management Board
 - Budget and Finance Committee
 - At-Large Member, House of Delegates
 - Council member, Individual Rights and Responsibilities Section
 - Council member, Criminal Law Section
 - Police Misconduct Committee
 - MBA Diversity Task Force

- American Bar Association
 - Individual Rights and Responsibilities Section
 - ABA/MBA Delegation to Bristol County Jail to Assess Compliance with INS Detention Standards
- American Association for Justice (formerly, Association of Trial Lawyers of America)
 - Civil Rights Section
- Massachusetts Academy of Trial Attorneys
- Asian American Lawyers Association of Massachusetts
 - President (December 2003-2005);

10. I am a Fellow of the American Bar Foundation and a Life Fellow of the Massachusetts Bar Foundation. I have been named to the Massachusetts *Super Lawyers* each year from 2009 through 2011 and was given the Legal Worker Award by the National Lawyers Guild in 2012.

11. I have written and lectured extensively on the subjects of civil rights and civil liberties at bar associations, law schools, and training programs.

Time and Expense Records

12. Attached to the plaintiff's memorandum in support of plaintiffs' motion for costs and attorneys' fees are accurate lists of the time spent and expenses incurred in this case. These lists are computer print-outs taken from contemporaneous time records which are entered in case management and timekeeping software. The time and expense lists have been edited to reflect billing judgment as described below.

13. Review of the billing records indicates that not all time spent on the case was billed. Despite best efforts, inevitably some time was negligently not recorded. If I failed to record time, the time was not billed. Bills were only submitted when we made a contemporaneous record of the time. Further, between Attorney Wiesner and I, if we noted different amounts of time for the same conference, only the lower time was billed. If two attorneys were present when

only one was necessary, one attorney's time was not billed. Editing the bills consisted only of deductions from the recorded time.

14. Plaintiffs did not bill for 39.60 hours of time recorded by Attorney Jeffrey Wiesner for a savings of \$13,860.00 at \$350 per hour. Plaintiffs did not bill for 3.70 hours of time I recorded; at \$375 per hour, this is a reduction of \$1,387.50. Additionally, time spent by Attorney Mischa Karplus is not billed at all. He is a 2007 graduate of Boston University School of Law. He became employed at my office in September 2012 and began almost immediately to work exclusively on this case. He assisted in preparing for trial and was also present in court throughout the trial to assist plaintiffs and their lawyers. Time records show that he had recorded 108.20 hours. Thus, at \$250/hr, \$27,050.00 of recorded time was not billed. Thus \$42,297.50 of recorded time was not billed by plaintiffs' counsel.

15. Time spent waiting for the jury verdict is separately recorded and billed at a lower rate to reflect the fact that some other work could have been done. A lower rate is also billed for time spent on travel and time spent on the fee application. Even time spent communicating between co-counsel is being billed at the lower rate. In total, Plaintiffs reduced 133.40 hours from \$375/350 per hour to \$200 per hour for a further reduction of \$22,442.50.

16. Also attached to plaintiff's memorandum is an accurate list of expenses incurred in this case totaling \$11,185.28 which were necessary for this litigation which the defendant is liable for. These are expenses to third parties including stenographers, interpreters, translators and internal office expenses like copying and fax charges as well as reimbursement for travel expenses for travel. These expenses are typically billed to clients.

17. I would not be able to accept civil rights cases were it not for the availability of court ordered attorney's fees. Most of my cases, including this one, are taken based on a

contingent fee agreement which provides for fees to be paid by the defendant. Any fees paid by the defendant, reduces the amount due from the client under the contingent fee agreement. If the fee award exceeds the contingent amount, I take nothing from the client's award of damages for my fee. To date, I have received no compensation for the work I have performed on this case which now spans more than three years.

Signed under the pains and penalties of perjury, this 28th day of December, 2012,

/s/ Myong J. Joun
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